

FILED
JUN 14 2006
CLERK'S OFFICE
DETROIT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Civil Action No.: 92-74547

Plaintiff,

HON. DENISE PAGE HOOD

v.

NATHANIEL A. PHILLIPS
SSN: XXX-XX-1056

Defendant.

and

STATE OF MICHIGAN, STATE INCOME TAX,

Garnishee.

SHERMETA, ADAMS & VON ALLMEN, P.C.
BY: DEBORAH A. BANFILL (P63179)
Attorneys for Plaintiff
P.O. Box 80883
Rochester Hills, MI 48308
(248) 652-8200

WRIT OF CONTINUING GARNISHMENT

GREETINGS TO: STATE OF MICHIGAN, STATE INCOME TAX
Michigan Department of Treasury
Financial Operations Division
Third Party Withholding Unit
P.O. Box 15128
Lansing, MI 48901

An application for a Writ of Garnishment against the property of NATHANIEL A. PHILLIPS, Defendant, has been filed with this Court. A judgment has been entered in the above captioned case and there is presently owing the amount of \$2,172.44, including costs and interest, computed through June 14, 2006 from Defendant. The United States is represented by SHERMETA, ADAMS & VON ALLMEN, P.C., by DEBORAH A. BANFILL, P.O. Box 80883, Rochester Hills, MI 48308.

You are required by law to answer in writing, under oath, within ten (10) days, whether or not

you have in your custody, control or possession, any property owned by the debtor, including non-exempt, disposable earnings.

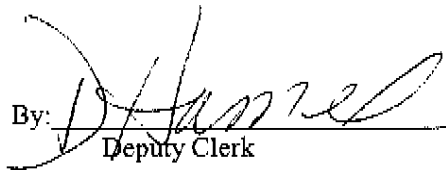
You must file the original written answer to this writ within ten (10) days of your receipt of this writ with the United States District Clerk at: Theodore Levin United States Courthouse, 5th Floor, 133 Federal Building, 231 W. Lafayette, Detroit, Michigan, 48226. Additionally, you are required by law to serve a copy of this writ upon the debtor at: 628 Delaware St, Apt B1, Detroit, MI 48202 and upon the counsel for the Plaintiff, SHERMETA, ADAMS & VON ALLMEN, P.C., P.O. Box 80883, Rochester Hills, MI 48308. Filing and service may be accomplished by using the United States mail.

Under the law, there may be property which is exempt from this Writ of Garnishment. Property which is exempt and which is not subject to this order is listed on the attached Claim for Exemption form. All non-exempt property belonging to NATHANIEL A. PHILLIPS, including but not limited to twenty-five (25%) of the non-exempt disposable earnings owed to NATHANIEL A. PHILLIPS, must be withheld from NATHANIEL A. PHILLIPS and retained by you pending further order of the Court.

Pursuant to 15 U.S.C. §1674, Garnishee, STATE OF MICHIGAN, STATE INCOME TAX, is prohibited from discharging the defendant from employment by reason of the fact that his/her earnings have been subject to garnishment for any one indebtedness.

If you fail to answer this writ or withhold property in accordance with this writ, the United States of America may petition the Court for an order requiring you to appear before the Court. If you fail to appear or do appear and fail to show good cause why you failed to comply with this writ, the Court may enter a judgment against you for the value of the debtor's non-exempt property. It is unlawful to pay or deliver to the defendant any item attached by this writ. Additionally, you may be held liable for a reasonable attorney's fee to the United States of America. Questions are to be directed to counsel for Plaintiff, SHERMETA, ADAMS & VON ALLMEN, P.C., P.O. Box 80883, Rochester Hills, Michigan 48308.

DAVID J. WEAVER
UNITED STATES DISTRICT COURT CLERK
EASTERN DISTRICT OF MICHIGAN

By: 
Deputy Clerk

Dated:

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EASTERN DISTRICT OF MICHIGAN
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Attorneys for Plaintiff
P.O. Box 80883
Rochester Hills, MI 48308
(248) 652-8200

CLERK'S NOTICE OF GARNISHMENT

You are hereby notified that a garnishment is being taken by the United States of America which has a judgment in Case No., 92-74547, in the United States District Court for the Eastern District of Michigan, Southern Division. A balance of \$2,172.44 remains outstanding on the Judgment.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property from being taken by the Government if NATHANIEL A. PHILLIPS can show that the exemptions apply. Attached is a summary of the major exemptions which apply in Michigan.

The exemptions that apply are those of the state where you have resided in the last 180 days. You have a right to ask the Court to apply any exemption to which you feel you are entitled or if you question this garnishment.

You have a right to ask the court to return your property to you if you think you do not owe the money to the Government that it claims you do, or if you think the property the Government is taking qualifies under one of the above exemptions.

If you want a hearing, you must notify the court within 20 days after receipt of the notice. Your request must be in writing.

If you wish, you may use this notice to request the hearing by completing the attached "Debtor's Hearing Request" form. You must either mail it or deliver it in person to the Clerk of the United States District Court, Theodore Levin United States Courthouse, 5th Floor, 231 W. Lafayette, Detroit, Michigan 48226. You must also send a copy of your request to Counsel for Plaintiff, SHERMETA, ADAMS & VON ALLMEN, P.C., P.O. Box 80883, Rochester Hills, Michigan 48308 notifying the Plaintiff that you want a hearing date.

The hearing will take place within 5 days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you think the Government is not entitled to the funds garnished.

If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the Clerk of the Court at Theodore Levin United States Courthouse, 5th Floor, 231 W. Lafayette, Detroit, Michigan 48226. You must also send a copy of your request to counsel for the Plaintiff, SHERMETA, ADAMS & VON ALLMEN, P.C., P.O. Box 80883, Rochester Hills, Michigan 48308. Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the Clerk of the Court. The clerk is not permitted to give legal advice, but can

refer you to other sources of information.

DAVID J. WEAVER
CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

By:  _____

Deputy Clerk

Dated:

**NOTICE TO JUDGMENT DEBTOR ON
HOW TO CLAIM EXEMPTIONS**

The attached pre-judgment or post-judgment process has been issued on request of the United States which holds a judgment on claim for a debt against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. A summary of some of the major exemptions under your state and federal law is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court and counsel for the United States. You have a right to a hearing within five business days, or as soon as practicable, from the date you file your claim with the court. If the creditor is asking that your wages be held, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

On the day of the hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) from garnishment which are checked below apply in this case:

- ☐ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ☐ 2. Veterans' benefits (38 U.S.C. § 3101).
- ☐ 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 562).
- ☐ 3. Federal civil service retirement benefits 5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ☐ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ☐ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ☐ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ☐ 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- ___ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e).
- ___ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:
 - a)___ \$18,450 in equity in a residence.
 - (b)___ \$2,950 in equity in a motor vehicle.
 - (c)___ Jewelry worth up to \$1,225.
 - (d)___ Personal property worth up to \$9,850. (However, no single item worth more than \$475 can be claimed as exempt.)
 - (e)___ Property totaling up to \$975 in value, plus up to \$9,250 of any unused amount of the exemption provided in number 7(a) above.
 - (f)___ \$1,850 of equity in professional books, implements or tools, of your trade or your dependant's trade.
 - (g)___ Any unmatured life insurance contract you own, other than credit life insurance.
 - (h)___ The aggregate value, up to \$9,850, of any accrued dividend or interest under, or loan value of, any unmatured life insurance contract you own, but only if you are insured or you are a dependant of the insured.
 - (i)___ Professionally prescribed health aids for you or your dependants.
 - (j)___ Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support, and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.
 - (k)___ A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(I)-(iii).
 - (l)___ Your right to receive, or property that is traceable to,
 - an award under a crime victim's reparation law;
 - a payment on account of the wrongful death of an individual of whom you were a dependant, but only to the extent reasonably necessary for

- your support or the support of your dependants;
- a payment under a life insurance contract that insured an individual of whom you were a dependant on the date of the insured's death, but only to the extent reasonably necessary for your support or the support of your dependants;
- a payment, not to exceed \$17,425, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to compensate actual pecuniary loss are not exempt under this paragraph.
- a payment in compensation of loss of your future earnings or the future earnings of an individual of whom you are, or were dependant, but only to the extent reasonably necessary for your support or the support of your dependants.

8. Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.
9. Compensation for war risk hazards 7(42 U.S.C. § 1717).

MAJOR EXEMPTIONS UNDER STATE LAW

NOTE: The law of the state where you have been domiciled for at least 180 days governs your rights.

NOTE: If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the state law exemptions listed below.

Fair market value

<u>MICHIGAN CLAIMED</u>	<u>TYPE</u>	<u>STATUTE SECTION</u>	<u>VALUE CLAIMED</u>
__10.	Homestead or Residential Property	- \$3,500 in a dwelling, including a condominium, not exceeding either 40 acres outside a town, city or village, or 1 lot inside a town, city or village, subject to certain liens.	- Mich. Cons. art. X, §3; Mich. Comp. Laws Ann. §§ 559.214, 600.6023, 6024, and 6027
__11.	Personal property	- Family pictures, all arms required by law to be kept, \$1000 in household goods, including books, 6 months of provisions for the debtor's family, a few, certain farm animals and a 6-month supply of feed, \$1,000 in shares at par value in an association, and an equity of redemption, all subject to exceptions.	- Mich. Const. art X, § 3; Mich. Comp. Laws Ann. § 600.6023
__12.	Trade implements	- \$1,000 in any item which enables a debtor to carry on his business.	- Mich. Comp. Laws Ann. § 600.6023(5)
__13.	Wages	- Householders with a family may exempt 60% of weekly wages, but not less than \$15 per week, and an extra \$2.00 per week per	- Mich. Comp. Laws Ann. § 600.5311

dependent other than a spouse. Other debtors may exempt 40% of weekly wages, but not less than \$10 per week.

__14.	Workers' Compensation	-Exempt.	-Mich. Comp. Laws § 418.821
__15.	Unemployment Compensation	-Exempt, except as regards obligations for necessities incurred during period of unemployment.	-Mich. Comp. Laws Ann. § 421.30
__16.	Veterans' Benefits	-World War II bonus payments, claims relating to the Korean Veterans' Military Pay Fund and Vietnam veterans' bonus payments.	-Mich. Comp. Laws Ann. §§ 35.926, 977 and .1027
__17.	Public Assistance	-Benefits granted under the Social Welfare Act, family support subsidy payments.	-Mich. Comp. Laws Ann. §§330.1158a
__18.	Tenancies by the Entirety	-Such interests may be exempt under appropriate circumstances. An individual debtor's interest in a portion of entireties property reachable by joint creditors is not exempt.	-Mich. Nat'l Bank v. Chrysler (In re Trickett), 5 C.B.C.2d 85 (B. Ct. W.D. Mich. 1981); In the Matter of Grosslight, 757 F.2d 773, 12 C.B.C.2d 525 (6th Cir. 1985)
__19.	Partnership Property	-A partner's interest in specific partnership property.	-Mich. Comp. Laws Ann. § 449.25
__20.	Pensions or Retirement Benefits	-Various civil service pensions and related benefits, individual retirement accounts.	-Mich. Comp. Laws Ann. §§38.40 and provisions cited in note thereafter and 600.6023 (a)(11)
__21.	Insurance	-Terms in any life or endowment insurance pol-	-Mich. Comp. Laws Ann. §§

500.4054 and 600.6023(6)

icy or annuity contract providing that the proceeds thereof or payments thereunder shall be exempt from the claims of the beneficiary's creditors shall be effective. Any insurance benefits on account of a disability are exempt, except such benefits remain subject to claims for necessities contracted for after benefits have accrued.

-Mich. Comp. Laws Ann. §§128.112
and 600.6023

-Any private burial ground, the debtor's rights of burial and burial places actually in use.

Cemeteries and
Burial Fund

__22.

-Mich. Comp. Laws Ann. § 18.362

-Exempt, except for expenses related to the injury which is the basis of the claim.

Crime
Victims'
Compensation
Awards

__23.

-Mich. Comp. Laws Ann. §
500.8046

-All exempt before and after payment.

Fraternal Benefit
Society
Benefits

__24.

DEBTOR'S HEARING REQUEST

The statements made in this claim of settlement to exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(_____) or telephonically at (_____)
 Address Phone no.

A. I am requesting a hearing because I believe the exemption I checked on the "Claim for Exemption" form applies to my case for these reasons:

_____B. I have attached the following proof in support of my claimed exemption:

C. I mailed a copy of this request to counsel for the United States by regular first class U.S. Mail at P.O. Box 80883, Rochester Hills, MI 48308 on _____.

_____D. Other reason(s) I believe I should not be garnished are:

Debtor's printed or typed name

Signature of debtor

Date